



April, 2013

SUMMARY – HB 2104A

Passed House 59-0 on 3/19/13

PROBLEM STATEMENT – CONCERNS WITH OVERUSE OF MEDICAL IMAGING

The Oregon Board of Medical Imaging (OBMI) has been made aware of several commercial photo studios in Oregon that sell expectant parents "keepsake" ultrasound movies or photos of fetuses, purely for nonmedical (entertainment) purposes. The FDA warns that the health effects of ultrasound on fetal tissue are not fully understood, and that ultrasound should only be used if required for legitimate medical purposes. Similarly, the FDA and other organizations express concern regarding the danger of unnecessary exposure to x-ray beams. Other groups such as the American Institute of Ultrasound Medicine express similar concerns regarding sonography.

Moreover, the OBMI is concerned that some parents who purchase a keepsake ultrasound from an untrained person might make the unfortunate decision to forego a proper diagnostic ultrasound from a trained professional. Such photos from untrained personnel would likely fail to detect certain types of fetal abnormalities, with potentially serious consequences.

WHY LEGISLATION IS NEEDED – STATE CANNOT REGULATE NON-MEDICAL IMAGING

Under current Oregon statute, the OBMI does not have the authority to regulate medical imaging completed in a photo studio or other non-medical setting, because the OBMI's jurisdiction is limited to medical imaging on human anatomy "for use in clinical diagnosis and treatment" (ORS 688.405[14]).

PROPOSED SOLUTION – LIMIT MEDICAL IMAGING FOR MEDICAL PURPOSES ONLY

This legislation deletes the provision in state law that currently limits the OBMI's jurisdiction to medical imaging used *for use in clinical diagnosis and treatment*. Concurrently, this legislation specifically prohibits any medical imaging procedure unless the procedure 1) serves a medical purpose; and 2) is both ordered by, and interpreted by, a licensed physician, physician assistant, nurse practitioner, certified registered nurse anesthetist, or other registered nurse authorized by the Board of Nursing to perform medical imaging.

Note that, while the keepsake fetal photo problem is only related to sonography, this legislation applies to *all* forms of medical imaging regulated by the OBMI¹, reflecting the OBMI's broader public health and safety concern that medical imaging involves invasive technologies that present certain known and potential risks for humans and should only be utilized when deemed medically appropriate.

EXEMPTIONS FOR MAMMOGRAPHY, RESEARCH AND EDUCATION

1. This legislation provides an exemption for medical imaging done for research and education purposes.
2. Screening mammography is exempted from the prohibition created in this legislation, because screening mammograms (for early detection of breast cancer) do not require a doctor's referral based upon the Federal Mammography Quality Standards Act (MQSA).
3. Exemptions from OBMI regulation that already exist in statute are *unchanged* by this legislation, including health providers who use sonography within their lawful scope of practice; physicians; dental offices; and students under supervision.

FISCAL IMPACT: It is anticipated that any additional enforcement actions can be managed within existing agency resources. Fiscal impact is expected to be minimal.

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¹ Medical imaging procedures are defined by statute to include radiography (X-ray), MRI, sonography/ultrasound, nuclear medicine and radiation therapy. ORS 688.405(16).